

In the High Court of Punjab and Haryana, Chandigarh.

I.T.A.No.517 of 2006

Date of Decision: 3.4.2007

Commissioner of Income Tax-I, Ludhiana.

...Appellant.

Versus

M/s L.W.S.Knitwears Limited, Ludhiana.

...Respondent.

**CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE RAJESH BINDAL**

Present: Mr.Sanjiv Bansal, Advocate
for the appellant-revenue.

JUDGMENT

M.M.KUMAR, J. (ORAL)

This is an appeal filed by the revenue under Section 260-A of the Income Tax Act, 1961 against the order of Income Tax Appellate Tribunal, Chandigarh Bench 'B', Chandigarh, passed in I.T.A. No.216/Chandi/2005 dated 28.4.2006 in respect of assessment year 1996-97. The revenue has claimed that the following substantial question of law would arise for determination of this Court:-

“Whether on the facts and in the circumstances of the case, the Hon'ble Income Tax Appellate Tribunal was correct in holding that the hosiery goods were actually exported and that claim for deduction under Section 80HHC of Income Tax Act was genuine and allowable to the assessee/respondent?”

After hearing learned counsel, we find that these are pure questions of fact as to whether the goods were actually exported or the claim for deduction under Section 80HHC of the Act was genuine. It has been argued by learned counsel for the revenue on the basis of assertion made in para 4 (i) to (vii) that the goods never reached the Country to which export was made and, therefore, the Tribunal should have concluded that the claim for deduction under Section 80HHC of the Act was bogus. However, from the perusal of the impugned order passed by the Tribunal, we find that there is ample evidence on record to support the conclusion reached by the Tribunal in the penultimate para. Even otherwise, once the goods had left the territorial water of India the incidence of export is complete and, therefore, on the basis that goods have not reached the Country of destination would not be a factor relevant for concluding that the claim made under Section 80HHC of the Act is bogus. Learned counsel has not referred to any requirement under the law to submit that the export would be complete only when the goods are received in the Country of destination. In any case, it amounts to re-appreciation of the evidence which cannot be done by this Court as the appeal could only be admitted on substantial question of law. The findings recorded by the Tribunal have not been shown to be perverse.

Dismissed.

(M.M.KUMAR)
Judge

April 3, 2007
dkb

(RAJESH BINDAL)
Judge